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DEPARTMENT FOR WHA/CEN, USDOC FOR 4332/ITA/MAC/OLAC

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TAGS: [KDEM](#) [NU](#) [PGOV](#) [PINR](#) [PREL](#) [KCOR](#) [ETRD](#) [ECON](#) [EFIN](#)
SUBJECT: ASSEMBLY PRESIDENT GOMEZ ADVANCES CONSTRUCTIVE
WORKING RELATIONS WITH EMBASSY

Classified By: DCM Peter M. Brennan. Reasons 1.4 (B,D).

¶1. (SBU) SUMMARY: In the spirit of his commitment to maintain a close working relationship with Embassy on legislation, National Assembly President Eduardo Gomez (Ref.) recently met with emboffs to discuss legislative priorities and how best to expedite them. The Embassy's priorities -- MANPADS destruction; passage of economic legislation required for CAFTA implementation; and, the draft criminal code -- coincide in large part with Gomez' interests. Gomez expects discussion and a vote on MANPADS destruction within the next three weeks. He has offered to do whatever in his power to expedite passage of legislation required for CAFTA-DR implementation and to place the criminal code on the Assembly's front burner. END SUMMARY.

¶2. (SBU) In the spirit of his commitment to maintain a close working relationship with Embassy on legislation, National Assembly President Eduardo Gomez (Ref.) met on February 6 with Econ Counselor , RLA, and Pol Counselor to discuss legislative priorities and how best to expedite them. Assembly Foreign Affairs chair Miguel Lopez joined the meeting along with Assembly legal adviser Reynaldo Molina. Embassy priorities -- MANPADS destruction, passage of economic legislation required for CAFTA implementation, and the draft criminal code -- coincided in large part with Gomez' interests.

Advancing MANPADS Destruction

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¶3. (SBU) Gomez advised that MANPADS destruction and a revision to the Defense law returning to the Executive the authority to destroy MANPADS and similar weapons is on the top of the Assembly's agenda and will be discussed and likely voted on during the first two weeks the Assembly is in plenary (starting February 13). To our proposal that the Assembly vote to destroy all 1,051 MANPADS rather than only the lot of 651 missiles, Gomez replied that he was unaware of this proposal but would consider it. Pol Counselor noted that President Bolanos' senior advisors appear to support the initiative and that Embassy has also raised it with MOD Ramirez and the Chief of the Military Halleslevens, the latter who wishes to travel to Washington in April and who is aware that MANPADS destruction will make his trip much more productive.

Assembly President - Criminal Code A Key Agenda Item

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¶4. (SBU) On the subject of criminal justice reform, emboffs discussed with Gomez, Lopez, and Molina pending and proposed legislation, concerning the: 1) enactment of the proposed criminal code; 2) amendment of the current controversial money laundering law; 3) enactment of legislation to provide for the proper administration of seized property, both real and personal property; 4) awarding more authority and autonomy to the Procurador General (or PGR, the Attorney General Novoa's office); 5) creation of a Financial Intelligence Unit (FIU); 6) affording legal protection to the Superintendent of Banks; 7) replacement of Fiscal General Centeno Gomez upon the expiration of his term in July 2006; and, 8) the need to reform the judiciary.

¶5. (SBU) Gomez shared that the Assembly will discuss the draft criminal code every Thursday and he welcomed Embassy input. In response to our concern that trafficking in persons (TIP) legislation included in the reform bill is unlikely to pass before the deadline for Embassy submission of the annual TIP report, Lopez suggested that, in the meantime, the current criminal code could be amended to include the reform language. Post will follow up on this offer.

¶6. (SBU) Lopez acknowledged the intense political repercussions (the Aleman effect) of money laundering legislation reform. He favors an expansive money laundering law that does not enumerate the possible predicate offenses to cover a host of illegal activities as a basis for prosecution. Lopez was more lukewarm on the law for the administration of seized property, but he recognized the need to remove the judiciary from that business.

¶7. (SBU) Lopez supported amending the code of criminal procedure to return much-needed autonomy to the PGR so that they can act independently in the investigation and prosecution of criminal offenses. (Note: The PGR is the real paladin in the fight against corruption in Nicaragua. After the code of Dec. 2002, the PGR serves only in the capacity of a solicitor general and its jurisdiction is limited to those cases where the state is a victim and the Ministerio Publico has either refused to act or specifically requested the PGR's assistance in a particular matter. This is cumbersome at best, impossible at worst and manifests itself as political obstructionism by legal fiat as evidence in the Huaca II case (the second Aleman case).) Lopez also noted that the Assembly must tackle the naming of the Fiscal General when Centeno Gomez' term expires this summer. He expects the post to be vacant while political consensus for an acceptable replacement is built and predicts it will be utilized as a maneuver to run out the clock on the Huaca II's Oct 2006 statute of limitations.

¶8. (SBU) Gomez and Lopez agreed over the need to create an independent and non-politicized financial intelligence unit (FIU) with its own budget, to support the police and law enforcement in handling their increasing number of financial investigation. Emboffs discussed the current Ponzi scheme case of Agave Azul as an example of an investigation that would be furthered by the creation of this specialized unit. We mentioned that currently there are several proposals to create a FIU before the several Assembly committees. Lopez Baldizon referred to the apportionment of legislation among various committees as "legislative organized crime" since it guaranteed a certain death and burial of that piece of legislation. The legislator also embraced our suggestion of affording legal protection for the Superintendent of Banks for his acts or omissions during the course of the performance of his official duties. He promised to reintroduce a law to this effect in the near future.

¶9. (SBU) Lopez Baldizon endorsed holding a constitutional convention to amend the constitution to, among other things, restructure the judicial system. He promised that if he is in a political position following this year's national election, he will work on convening such a convention.

110. (SBU) Gomez and Lopez consider the passage of legislation required for CAFTA-DR implementation a top priority. Econ Counselor informed them of the time constraints involved if Nicaragua is to join El Salvador for a March 1 Entry in Force, urging them to work with the Executive to pass the needed legislative package (changes in IPR legislation and strengthened anti-corruption penalties) under emergency procedures by February 16. As of the meeting, however, the Executive had yet to send the draft legislation officially to the Assembly, or discuss procedures with the President, though Gomez said he understood the GON was consulting with the political parties. Indeed, two weeks previously, the Executive had told Lopez that the CAFTA legislation, like the Executive's proposed reforms to the tax code, was not yet ready to be sent to the Assembly. Econ counselor explained that because the legislation was intended to implement commitments made during the course of the negotiations, it was important that all parties agree that the proposed legislation did indeed fulfill those commitments before it was submitted to the Assembly; however, this agreement was now achieved and if Nicaragua did not want El Salvador to be the only country to enter CAFTA in the first group, it would be necessary to act quickly.

111. (SBU) During the February 7 closing of a two-day forum on CAFTA-DR implementation sponsored by INCAE and the Ministry of Trade(MIFIC), Trade Minister Alejandro Arguello expressed continuing optimism about passage of the CAFTA-DR legislative reforms before February 16, despite the fact that only two legislative days - February 14 and 15 - remain before the deadline. It became clear during the discussion that Arguello had been entirely sidelined from the legislative strategy concerning the CAFTA-DR reforms, such that he had spent most of the two preceding days at the CAFTA forum, to which 10 deputies had confirmed their participation, but only Sandinista Bayardo Arce appeared briefly to argue the merits of a proposed development bank.

Arguello admitted that Secretary of the Presidency Leonardo Somarriba and Presidential Advisor Frank Arana were managing a legislative strategy headed by Minister of Finance Mario Arana and aimed at achieving political consensus through the National Dialogue process. He admitted that he had not been consulted. Arguello also asked for Embassy intercession to encourage National Assembly party leaders to meet with him, as they had yet to return his calls requesting meetings. In a separate conversation with Econoff, Nicaraguan Chamber of Commerce President Jase Adan Aguire threw up his hands in exasperation when queried about the wisdom of running the CAFTA reforms through the National Dialogue.

112. (SBU) Econoff called Luis Alejandro Matus, Chief of Staff to Mario Arana, on the evening of February 7, to determine if a head-counting exercise of pro-CAFTA forces was running parallel to a more inclusive process of political consensus through the National Dialogue. Matus offered that Arana had met with four liberal deputies earlier in the day, including Economic Commission Chairman Wilfredo Navarro to secure commitments on the timing of the CAFTA vote. He added that the CAFTA emergency measure would be included in a larger package of economic legislation, including tax code amendments law and other IMF/World Bank priorities. Matus reinforced Minister Arguello's message about the primacy of the National Dialogue, acknowledging this dialogue will be "messy", especially with transportation and medical strikes to resolve. When pressed, Matus confessed that it will be a "miracle" if the CAFTA reforms pass before the February 16 deadline.

Other Economic Priorities

113. (SBU) Tax code amendments: Econ counselor pointed out four articles in the newly-enacted tax code that, if not

revised, would drastically limit the tax authority's ability to continue its past record of increasing tax collections and thus leave the budget woefully under-funded. Lopez appeared very familiar with the issue. Coastal law: Lopez said that there was little likelihood that this controversial law - brainchild of "missionary" San Juan del Sur deputy Geraldo Miranda, the hero/villain of the Assembly's January election drama - or the similarly problematic water law would be passed this year, as their FSLN proponents did not want to antagonize the private sector before the elections. Civil Aviation Law: Lopez said that this law, which is a sine qua non for any FAA upgrade of Nicaragua to Category 1, was already on the agenda for the Assembly's session (comment: true, but the law has been stuck halfway through its second reading for over a year, with no noticeable progress).

¶14. (C) Comment: Chances are surely dimming for passage of the required CAFTA-DR reforms before the deadline. It appears that the reforms will get bogged down in a series of too-clever-by-a-half political and parliamentary maneuvers. Nicaragua's National Dialogue, a high-level group of political leaders from the major parties which includes Sandinista leader Daniel Ortega and the GON, has served alternately as a means of setting national policy - generally by resolving disputes - or of increasing political rancor and prolonging debate. It has never been a tidy affair. There are clear advantages to fronting the effort with Minister of Finance Mario Arana, who led MIFIC during the CAFTA negotiations and has Sandinista roots. He enjoys broader political credibility than his cabinet counterparts and command of CAFTA-DR issues. Arana can also counter any rumblings about the package containing new or unexpected issues by referring to his personal knowledge of the negotiations as head of MIFIC. However, including the reforms in a high-wire discussion about ongoing strikes seems counterintuitive to a quick and quiet legislative resolution.

¶15. (SBU) Comment, continued: The notion of including the relatively simple CAFTA legislative fixes in a Christmas tree legislative package of more contentious reforms also seems wrongheaded. Sadly, the weekend evolution of the CAFTA strategy from a head-counting exercise of pro-CAFTA forces to a more inclusive, but complicated, process of political consensus is likely to backfire. Bottom line: the smart but discouraging bet is against Nicaragua entering the CAFTA-DR agreement into force by March 1. End Comment.

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